



City of Marietta Meeting Minutes CITY COUNCIL

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

William B. Dunaway, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Holly Marie Walquist, Ward 3
Irvan A. "Van" Pearlberg, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, September 9, 2009

7:00 PM

Council Chamber

Presiding: William B. Dunaway

Present: Philip M. Goldstein, Jim King, Rev. Anthony Coleman, Holly Walquist, Grif Chalfant, Annette Lewis and Van Pearlberg

Also Present:

William F. Bruton, City Manager

Douglas R. Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor William B. Dunaway called the meeting to order at 7:20 p.m.

INVOCATION:

Mayor Dunaway called upon Council member Grif Chalfant to give the invocation.

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

20090964 Service Award - Julia C. Walker

Presentation of a Service Award to Julia C. Walker for her service and dedication on the Marietta Historic Preservation Commission and Historic Board of Review.

This matter was Presented.

PROCLAMATIONS:

20090825 Marietta School System Energy Conservation Competition

Representatives from Marietta City Schools, Marietta Board of Lights and Water and Apogee Interactive are present to accept a Proclamation for their web-based energy conservation contest in which each of the city school's will compete to decrease their electrical consumption starting September 1, 2009 throughout the school year.

This matter was Presented.

20090863 Clean Water Week Proclamation

Kim Holland receives a Proclamation declaring September 27-October 3, 2009 as Clean Water Week.

This matter was Presented.

20090864 Public Power Week Proclamation

Karmen Scarbro receives a Proclamation declaring September 27-October 3, 2009 as the 23rd annual Public Power Week.

This matter was Presented.

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:**CONSENT AGENDA:**

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

Mayor Dunaway briefly explained the consent agenda process. The following amendments were made to the consent agenda:

-under Ordinances: Agenda items 20090893, 20090932, 20090935, 20090937 and 20090939 were removed from the agenda.

-under Economic/Community Development: Agenda item 20090883 was added to consent with Council member Coleman opposed.

-under Judicial/Legislative: Agenda item 20090768 was added to the consent agenda.

-under Other Business: Agenda item 20090905 was added to the consent agenda.

A motion was made by Council member Goldstein, seconded by Council member King, to suspend the rules of order to add an agenda item regarding a request to the Attorney General. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

Mayor Dunaway opened the public hearing for items on the consent agenda requiring a public hearing. Seeing no one wishing to speak, the public hearing was closed.

A motion was made by Council member King, seconded by Council member Coleman, to approve the consent agenda as amended. The motion unanimously carried by the following vote:

Vote: 7 - 0 - 0

Approved

With the following exceptions:

-Council member Goldstein abstaining on agenda items 20090922, 20090923, 20090924, 20090929, 20090930, 20090934, 20090936, 20090938, and 20090868.

-Council member Coleman voting against agenda item 20090883.

MINUTES:

- * **20090876 Regular Meeting - August 12, 2009**
Review and approval of the August 12, 2009 regular meeting.
This Matter was Approved on the Consent Agenda.

Vote: 6 - 1 - 0 Approved
Voting Against: Philip M. Goldstein

- * **20090882 Special Meeting - August 26, 2009**
Review and approval of the August 26, 2009 special meeting.
This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

MAYOR'S APPOINTMENTS:**CITY COUNCIL APPOINTMENTS:**

- * **20090816 Marietta Historic Preservation Commission**
Appointment of Douglas M. Frey to the Historic Preservation Commission to fill an expiring term for Ward 3, for a three (3) year term expiring September 14, 2012.
This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved
- * **20090872 Marietta Museum of History Board of Directors**
Appointment of Walter Keen (Kee) Carlisle to the Marietta Museum of History for a three (3) year term expiring October 31, 2012.
This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved
- * **20090891 Construction Board of Adjustment and Appeals**
Appointment of Gordon L. Brans to the Construction Board of Adjustment and Appeals to fill an unexpired term (Ward 3), expiring January 31, 2011.
This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

ORDINANCES:

- * **20090893 Code Enforcement - 876 Richard Street**
An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 876 Richard Street.
Listed Owner: Kenneth C. Cook
Repeat Violation History: (3) previous cases since June, 2008.
Certified mail receipt not received as of 08/28/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED

This Matter was Removed.

Vote: 7 - 0 - 0 Removed
- * **20090922 Code Enforcement - 341 W. Post Oak Crossing**
[Ord 7382](#)
An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 341 W. Post Oak Crossing.
Listed Owner: Erika S. Burse
Repeat Violation History: (13) previous cases since May 7, 2002.
Certified mail receipt not received as of 08/28/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1 Approved
Abstaining: Philip M. Goldstein
- * **20090923 Code Enforcement - 335 Pin Oak Court**
[Ord 7383](#)
An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 335 Pin Oak Court.
Listed Owner: Garcia Iris
Repeat Violation History: (3) previous cases since May 12, 1997.
Certified mail receipt not received as of 08/28/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1 Approved
Abstaining: Philip M. Goldstein

- * **20090924** **Code Enforcement - 78 Griggs Street**
[Ord 7384](#) An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 78 Griggs Street.
Listed Owner: Peterson, Daniel
Repeat Violation History: (5) previous cases since June 27, 2001.
Certified mail receipt received 08/14/09; signed by Pak Mail Centers of America.
Taxes paid: Yes
PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1 **Approved**
Abstaining: Philip M. Goldstein
- * **20090928** **Code Enforcement - 261 Hill Street**
[Ord 7385](#) An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 261 Hill Street.
Listed Owner: Marvin R. Little
Repeat Violation History: (2) previous cases since August 15, 2007.
Certified mail receipt received 08/20/09; signed by owner.
Taxes paid: Unpaid; owes \$683.45
PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved**
- * **20090929** **Code Enforcement - 1425 Cunningham Road**
[Ord 7386](#) An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1425 Cunningham Road.
Listed Owner: Joseph Milk
Repeat Violation History: (6) previous cases since October 29, 1998.
Certified mail receipt not received as of 08/28/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1 **Approved**
Abstaining: Philip M. Goldstein
- * **20090930** **Code Enforcement - 650 Powder Springs Street**
[Ord 7387](#) An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the

corporate limits of the City of Marietta, Georgia at 650 Powder Springs Street.

Listed Owner: Noble Realty Incorporated

Repeat Violation History: (6) previous cases since September 13, 2006.

Certified mail receipt not received as of 08/28/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstaining: Philip M. Goldstein

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20090931

Code Enforcement - 562 Welch Street

[Ord 7388](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 562 Welch Street.

Listed Owner: James M. Thompson

Repeat Violation History: (2) previous cases since December 20, 2000.

Certified mail receipt received 07/31/09; unclaimed. Spoke to owner in person.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstaining: Philip M. Goldstein

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20090932

Code Enforcement - 574 Welch Street

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 574 Welch Street.

Listed Owner: Arnold Long

Repeat Violation History: (12) previous cases since January 11, 2001.

Certified mail receipt received 07/31/09; unclaimed; spoke with owner on phone.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Removed.

Vote: 7 - 0 - 0

Removed

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20090934

Code Enforcement - 600 Tom Read Drive

[Ord 7390](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 600 Tom Read Drive.

Listed Owner: Webb Jason D

Repeat Violation History: (7) previous cases since September, 2007.

Certified mail receipt not received as of 08/27/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* **20090935 Code Enforcement - 285 Hamilton Court**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 285 Hamilton Court.

Listed Owner: Shabazaz Masood Tony

Repeat Violation History: (4) previous cases since August 24, 2006.

Certified mail receipt not received as of 08/28/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Removed.

Vote: 7 - 0 - 0

Removed

* **20090936 Code Enforcement - 1434 James Street**

[Ord 7389](#)

An ordinance authorizing the reremoval of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1434 James Street.

Listed Owner: Tarbutton Deborah M & Robert E

Repeat Violation History: None.

Certified mail receipt received 08/21/09; signature not legible.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved as Amended on the Consent Agenda.

Vote: 6 - 0 - 1

Approved as Amended

Abstaining: Philip M. Goldstein

* **20090937 Code Enforcement - 241 Pauladean Circle**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 241 Pauladean Circle.

Listed Owner: Pope Mary N (Deceased)

Repeat Violation History: (5) previous cases since August 7, 2003.

Certified mail receipt received 08/22/09; signed by Don Pope (son).

Taxes paid: Unpaid, Owes \$1,793.85 for 2005 thru 2008.

PUBLIC HEARING REQUIRED

This Matter was Removed.

Vote: 7 - 0 - 0**Removed***** 20090938****Code Enforcement - 390 Scott Drive**[Ord 7381](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 390 Scott Drive.

Listed Owner: Cash James G

Repeat Violation History: (6) previous cases since August 26, 2005.

Certified mail receipt not received as of 08/28/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1**Approved**

Abstaining: Philip M. Goldstein

*** 20090939****Code Enforcement - 123 Lacy Street**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 123 Lacy Street.

Listed Owner: Roselane Professional Group LLC

Repeat Violation History: (3) previous cases since June 25, 2008.

Certified mail receipt received 08/21/09; signed by tenant ?; owner's not returned.

Taxes paid: Unpaid; owes \$19.36 for 2008.

PUBLIC HEARING REQUIRED

This Matter was Removed on the Consent Agenda.

Vote: 7 - 0 - 0**Removed****RESOLUTIONS:****CITY ATTORNEY'S REPORT:***** 20090943****Denial of a claim**

Denial of the claim of Concepcion Landor.

This Matter was Approved to Deny Claim on the Consent Agenda.

Vote: 7 - 0 - 0**Approved to Deny Claim****CITY MANAGER'S REPORT:****MAYOR'S REPORT:****COMMITTEE REPORTS:****1. Economic/Community Development: Grif Chalfant, Chairperson**

* **20090883 Proposed changes to the Marietta Growth Fund**

Motion approving the amended project description of the federal HUD EDI grant # B-05-SP-GA-0448 in the amount of \$99,200.00 from a loan program to a grant program for the Marietta Growth Fund as approved by the Director of the Congressional Grants Division, U. S. Dept. of Housing and Urban Development. And, acceptance of the revised Marietta Growth Fund grant guidelines pertaining to U.S. HUD grants funds only. (Exhibit A)

Motion approving the amended project description of the federal HUD EDI grant # B-05-SP-GA-0448 in the amount of \$99,200 and HUD EDI grant # B-06-SP-GA-0255 in the amount of \$99,000 from a loan program to a grant program for the Marietta Growth Fund as approved by the Director of the Congressional Grants Division, U. S. Dept. of Housing and Urban Development. And, acceptance of the revised Marietta Growth Fund grant guidelines pertaining to U.S. HUD grants funds only. (Exhibit A)

This Matter was Approved as Amended on the Consent Agenda.

Vote: Vote: 6 - 1 - 0 **Approved as Amended**
Voting Against: Rev. Anthony Coleman

* **2. Finance/Investment: Annette Lewis, Chairperson**

20090834 Grant Award

[Ord 7376](#)

Ordinance approving an amendment to the Fiscal Year 2010 General Fund budget to receive and appropriate grant funding from the Department of Justice for \$856,974 to pay for six newly hired officers for three years.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved**

* **20090886 National Recreation and Park Association Archery Grant**

[Ord 7377](#)

Ordinance approving an amendment to the Fiscal Year 2010 General Fund budget to receive and appropriate a donation from the National Recreation and Park Association for a youth archery program.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved**

3. Judicial/Legislative: Philip M. Goldstein, Chairperson

* **20090779 Smoking in City Parks**

[Ord 7378](#)

Approval of a replacement to Ordinance 10-4-210 extending the ban on smoking in Glover Park to all parks.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved**

* **20090768 Rockford Commons**

Amending Item #5 in the Letter of Stipulations dated March 21, 2006 from Garvis L.

Sams, Jr. to Rusty J. Roth to allow construction of homes with a minimum of 2,000 square feet instead of 2,200 square feet.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

4. Parks, Recreation and Tourism: Holly Walquist, Chairperson

20090874 Parks and Recreation Bond

Motion to approve the allocation of funds for the Park Bond for the City of Marietta, attached hereto as Exhibit "A, Version 8-20-09" and incorporated herein by reference, subject to the fact that the allocations of funds for project components are estimates and may vary as planning, engineering, site improvements, etc. progress, with a citizen committee appointed by the next City Council. Surplus from over-estimated projects, including interest received on bond funds of such projects, shall be used first to complete under-estimated projects and all remaining funds received from interest and over-estimated projects shall be used for other projects or improvements which the City Council may deem necessary and which are encompassed within the language of the statement of purpose in the election notice.

Mayor Dunaway called for a motion regarding this matter.

A motion was made by Council member Walquist, seconded by Council member King, to approve this matter.

Deborah Huwaldt, accompanied by, Lynda Speight spoke regarding the need for parks on Franklin Road. Deborah Huwaldt is a resident of St. Augustine on Franklin Road and a member of the Franklin Rd Community Association. Lynda Speight is President of the Franklin Rd Community Association and a resident of Ashton Place Apartments on Franklin Road.

Councilwoman Lewis requested that the City Attorney review and comment on certain documents. The City Attorney responded that he had reviewed the information supplied by Ms. Lewis and Mr. Buss. The information dealt with the subject entitled "Leisure Equity." Specifically, the information discussed Executive Order 12898. The City Attorney summarized the issue by quoting from the January 2008 article from Leisure Studies by stating the following:

Subsequent court decisions, however, curtailed the courts' abilities to limit the discretion of local elected officials and administrators in the allocation of public services by ruling that plaintiffs would need to prove that differences in the distribution of services resulted from 'discriminatory intent' of local officials. The equity case law relating to leisure services was reported in some detail by Wicks (1986) and since his review no additional cases appear to have been filed alleging inequitable allocation of leisure services. In reference to this finding, an attorney experienced with leisure services case law explained:

Unless...you can show inequitable distribution based upon racial grounds or some other suspect class (i.e. creed, color, religion, or national origin) is unlikely that a federal court would question inequitable distribution based upon economic status. Rather than a legal issue subject to judicial redress, this is more of a political issue to be decided at the ballot box, rather than a federal court room. (Kozłowski, 2002: n.p.)

When asked about the liability issue by Councilwoman Lewis, the City Attorney stated that any person in a protected class would have to meet the burden of proof in court since there is no case law in this circuit.

In depth discussion was held by Council members.

A motion was made by Council member Walquist, seconded by Council member King, that this matter be Approved. The motion carried by the following vote:

Vote: 5 - 2 - 0

Approved

Vote Against: 2 - Philip M. Goldstein and Annette Lewis

5. Personnel/Insurance: Van Pearlberg, Chairperson

*** 20090857 Renewal of annual health plan**

Motion to approve renewal of the group health plan administration with Blue Cross/Blue Shield of Georgia, Inc. for calendar year 2010. Further, authority is requested to approve the administrative service agreement with Blue Cross/Blue Shield of Georgia, Inc.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20090858 Pension Board length of term**

[Ord 7379](#)

Approval of an Ordinance modifying the City of Marietta/BLW Retirement Plans to change the length of term for Pension Board members from two years to three years.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20090859 Membership in Georgia Association of Public Benefit Plans (GAPBP)**

Motion to approve the request by the Pension Board that the city of Marietta join the newly formed Georgia Association of Public Benefit Plans (GAPBP).

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20090887 Personnel Rules and Regulations - Smoking Policy**

[Ord 7380](#)

Approval of an Ordinance amending City Code Sections 4-4-36-030 so as to update the Smoking Policy in the Personnel Rules and Regulations.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

6. Public Safety Committee: Anthony Coleman, Chairperson

*** 20090862 Standard Operating Procedures**

Motion approving revisions to the following Standard Operating Procedures for the Marietta Police Department: A036 Ride-along Program, A047 Internal Affairs, A078 Transfers, A082 Performance Evaluations, T050 Training.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0**Approved****7. Public Works Committee: Jim King, Chairperson**

- * **20090867 No Parking Zone**
Motion authorizing the installation of No Parking signs along the Washington Avenue and Beavers Street frontage of property at 27 Beavers Street.

This Matter was Approved on the Consent Agenda.**Vote: 7 - 0 - 0****Approved**

- * **20090868 Dobbs Street Extension**
A motion dedicating the Dobbs Street Extension right of way as described on the attached legal description for the purposes of a public roadway.

Council member Goldstein previously disclosed that he has swapped property with Mr. Gary Eubanks or an Eubanks Entity that has access onto Dobbs Street Extension.

This Matter was Approved on the Consent Agenda.**Vote: 6 - 0 - 1****Approved**

Abstaining: Philip M. Goldstein

- * **20090869 Etowah Habitat Conservation Plan**
Res 1472 Resolution acknowledging the City of Marietta as a participating local government in the Etowah Aquatic Habitat Conservation Plan.

This Matter was Approved on the Consent Agenda.**Vote: 7 - 0 - 0****Approved**

- * **20090870 Georgia Department of Transportation Gateway Grant**
Res 1471 Approval of Resolutions and Memorandum of Understandings for two Georgia Department of Transportation Gateway Grant applications for landscaping and beatification of gateway areas in the City. Proposed locations to be considered are Polk Street at North Marietta Parkway (SR 120 Loop), and South Marietta (SR 120 Loop) from Cobb Parkway (US 41) to Franklin Road.

This Matter was Approved on the Consent Agenda.**Vote: 7 - 0 - 0****Approved**

- * **20090892 Church Street Parking**
Motion authorizing a 2 Hour Parking zone be placed along 3 spaces immediately north of Lemon Street along the east side of Church Street.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0**Approved****SCHEDULED APPEARANCES:****UNSCHEDULED APPEARANCES:**

Juliet Jones and Sarah Bass, who reside in Marietta, spoke in favor of the ordinance approved banning smoking in parks.

Larry Wills, who resides at 60 Oakmont Drive, expressed concern regarding the improper use of the City's web site.

OTHER BUSINESS:

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20090905 No Parking on Soaring Drive

Motion authorizing the installation of a No Parking Zone along both sides of Soaring Drive beginning at 80' from Barnes Mill Road to the intersection of Barnes Mill Road.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0**Approved****20090965 Reimbursement Resolution**

Motion to approve document attached as document number 1. Explanation: This Resolution sets forth the City's intent to request the issuance of tax-exempt bonds or taxable Build America Bonds by the Downtown Marietta Development Authority ("DMDA") to finance various capital projects of the City and to reimburse the City from bond proceeds for project expenses advanced by the City prior to the issuance of the bonds. The City will be spending funds for this project in advance of the issuance of the bonds. The Internal Revenue Service requires the adoption of a "reimbursement resolution" whenever an issuer plans to reimburse expenditures made prior to the issuance of bonds from bond proceeds.

A motion was made by Council member King, seconded by Council member Lewis, that this matter be Denied. The motion failed by the following vote:

Vote: 3 - 4 - 0**Denied**

Vote Against: Van Pearlberg, Grif Chalfant, Rev. Anthony Coleman and Holly Walquist

(Clerk's Note: See motion to reconsider agenda item 20090965 on page 14)

20090966 Authorizing Resolution for Agreement of Sale with DMDA relating to DMDA Issuance of Revenue Bonds to Fund City Projects

Motion to approve document attached as document number 2. Explanation: This Resolution authorizes the City to execute and deliver an intergovernmental contract in the form of an Installment Purchase Agreement with DMDA in connection with the issuance by DMDA of not more than \$35,500,000 of its Revenue Bonds (City of

Marietta Project) Series 2009 (the "Series 2009 Bonds"). The Series 2009 Bonds will be issued as tax-exempt obligations, taxable Build America Bonds, or as a combination of the two types of obligations, whichever will result in the lowest debt service payments on the Series 2009 Bonds. This Resolution also authorizes City officials to execute and deliver all documents and instruments necessary or appropriate in connection with the issuance of the Series 2009 Bonds.

Speakers regarding this issue:

Steve Tumlin, who resides at 1057 Grantham Way.

William Sprague, who resides at 50 Oakmont Drive.

Bill Bolton, who resides at 2104 Drogheda Lane.

A motion was made by Council member King, seconded by Council member Lewis, that this matter be Denied. The motion failed by the following vote:

Vote: 3 - 4 - 0

Denied

Vote Against: Van Pearlberg, Grif Chalfant, Rev. Anthony Coleman and Holly Walquist

20090967

Resolution Authorizing Cancellation and Discharge of All Outstanding DMDA Bonds relating to the Marietta Conference Center Project and Satisfaction of All Documents and Instruments relating to the Marietta Conference Center Project Bonds.

Motion to approve Resolution Authorizing Redemption and/or Cancellation and Discharge of All Outstanding DMDA Bonds relating to the Marietta Conference Center Project and Satisfaction of All Documents and Instruments relating to the Marietta Conference Center Project Bonds. Motion to approve document attached as document number 2. Explanation: This Resolution authorizes the City to redeem, cancel or discharge all DMDA Marietta Conference Center Project Bonds, in return for the termination of the City's obligations to make payments under the Conference Center Funding Agreements. The Conference Center Funding Agreements obligated the City to provide the funds required to pay debt service on DMDA's Marietta Conference Center Project Bonds. This Resolution authorizes the execution and delivery of all documents and instruments necessary or convenient in connection with the termination of the City's obligations under the Conference Center Funding Agreements. This Resolution also approves and authorizes any or all actions of DMDA necessary or convenient to redeem, cancel, discharge, or satisfy the Marietta Conference Center Project Bonds and all security for such Bonds, including, but not limited to, termination of the swaps and the letter of credit.

No Action Taken.

Discussion was held regarding Agenda Item 20090965, Reimbursement Resolution.

A motion was made by Council member Walquist, seconded by Council member Coleman, to reconsider Agenda Item 20090965. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

20090965**Reimbursement Resolution***Res 1473*

Motion to approve document attached as document number 1. Explanation: This Resolution sets forth the City's intent to request the issuance of tax-exempt bonds or taxable Build America Bonds by the Downtown Marietta Development Authority ("DMDA") to finance various capital projects of the City and to reimburse the City from bond proceeds for project expenses advanced by the City prior to the issuance of the bonds. The City will be spending funds for this project in advance of the issuance of the bonds. The Internal Revenue Service requires the adoption of a "reimbursement resolution" whenever an issuer plans to reimburse expenditures made prior to the issuance of bonds from bond proceeds.

A motion was made by Council member King, seconded by Council member Lewis, that this matter be Approved. The motion carried by the following vote:

Vote: 7 - 0 - 0**Approved****20090985****Attorney General Opinion**

Motion to direct the City Attorney to seek a written legal opinion from the Attorney General of the State of Georgia regarding the constitutionality of the financing approved by the Marietta City Council on September 9, 2009. The requested opinion shall have a return date of September 30, 2009 in order to give the Marietta City Council time to consider the response given by the Attorney General of the State of Georgia.

A motion was made by Council member Coleman, seconded by Council member King, that this matter be Approved. The motion carried by the following vote:

Vote: 7 - 0 - 0**Approved****ADJOURNMENT:**

The meeting was adjourned at 9:25 p.m.

Date Approved: 11/09/09

William B. Dunaway, Mayor

Attest: _____
Stephanie Guy, City Clerk